

Amend claim 11 as follows:

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11. (Once amended) A method for adjusting the data rate of data packets transiting a data network, the method comprising:

determining a maximum data rate of data packet flow allowed through the data network;

monitoring the data rate of the data packets through the data network;

determining a predetermined priority of a data packet;

determining remaining memory in a memory circuit;

if the data packet has a low priority and the data rate is greater than the maximum data rate, dropping the data packet; and

if the data packet has a high priority and the data rate is greater than the maximum data rate, processing the data packet.

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Cancel claims 13-22 without prejudice.

#### REMARKS

The Applicant respectfully submits that claims 4-7 and 11 – 12 are in condition for allowance and therefore asks that they be allowed to issue forthwith.

Claims 4-7 were objected to as being dependent upon a rejected base claim, but determined to be allowable if rewritten in independent form to include all of the limitations of the base claim from which they depended. Claims 11 and 12 were held to be allowable if rewritten to overcome the rejections under 35 USC 112, p. 2.

Claims 4-7 have been re-written as independent claims, each of them incorporating the limitations of independent claim 1.

Claim 11 has been amended only to change the word "system" to "method" and thereby overcome the rejection under 35 USC 112, paragraph. 2. The applicant submits that the amendment to independent claim 11 was not made for any reason related to patentability (as per the Federal Circuit's *Festo* decision) but was made only to correct an obvious typographical error. If the Examiner contends otherwise, the applicant respectfully requests the Examiner to substantiate how or why changing the word "system" to "method" in the preamble of a method claim was not simply to correct a typographical error, wholly unrelated to patentability.

As set forth above, the Applicant has on this date, file a continuation application under 37 C.F.R. 1.53(d) wherein the claims cancelled without prejudice herein are being prosecuted.

Respectfully,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

4. (Once amended) [The method of claim 1 wherein the step of processing includes] A method for providing data packet congestion control for a data network having a buffer circuit, each data packet comprising a priority, the method comprising the steps of:

determining the particular service flow associated with the data packet;

detecting a current data packet flow rate through the data network for the

particular service flow associated with the data packet;

quantizing the data packet flow rate into at least one level;

detecting a buffer circuit depth;

determining the priority associated with a current data packet; and

processing the current packet in response to the current data packet flow rate, the data packet priority, and the current buffer circuit depth; and

determining a probability of dropping a data packet using the current data packet flow rate, the data packet priority, and the current buffer circuit depth to access, from a matrix of plots indicating the probability of dropping the data packet, each of the plots within the matrix of plots indicating the packet drop probability as a function of the buffer circuit depth.

5. (Once amended) [The method of claim 1 wherein the step of processing includes] A method for providing data packet congestion control for a data network having a buffer circuit, each data packet comprising a priority, the method comprising the steps of:

determining the particular service flow associated with the data packet;

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detecting a current data packet flow rate through the data network for the particular service flow associated with the data packet;  
quantizing the data packet flow rate into at least one level;  
detecting a buffer circuit depth;  
determining the priority associated with a current data packet;  
processing the current packet in response to the current data packet flow rate, the data packet priority, and the current buffer circuit depth; and

determining a probability of dropping a data packet using the current data packet flow rate, the data packet priority, and the current buffer circuit depth to access, from a matrix of plots indicating the probability of dropping the data packet, each of the plots within the matrix of plots indicating the packet drop probability as a function of the buffer circuit depth with [a] plots that have the same shape and parameters as the plots used for Random Early Discard congestion control techniques.

6. (Once amended) [The method of claim 1 wherein the step of quantizing includes] A method for providing data packet congestion control for a data network having a buffer circuit, each data packet comprising a priority, the method comprising the steps of:

determining the particular service flow associated with the data packet;  
detecting a current data packet flow rate through the data network for the particular service flow associated with the data packet;  
quantizing the data packet flow rate into four different flow rates[.];  
detecting a buffer circuit depth;  
determining the priority associated with a current data packet; and

processing the current packet in response to the current data packet flow rate, the data packet priority, and the current buffer circuit depth.

7. (Once amended) The method of claim 6 wherein the four predetermined flow rates are determined by comparing the service flow's data packet flow rate with a minimum data rate threshold, a maximum data rate threshold, and a mid-level data rate threshold.

A method for providing data packet congestion control for a data network having a buffer circuit, each data packet comprising a priority, the method comprising the steps of:

determining the particular service flow associated with the data packet;

detecting a current data packet flow rate through the data network for the particular service flow associated with the data packet;

quantizing the data packet flow rate into at least one level;

detecting a buffer circuit depth;

determining the priority associated with a current data packet; and

processing the current packet in response to the current data packet flow rate, the data packet priority, and the current buffer circuit depth.

11. (Once amended) A method for adjusting the data rate of data packets transiting a data network, the [system] method comprising:

determining a maximum data rate of data packet flow allowed through the data network;

monitoring the data rate of the data packets through the data network;

determining a predetermined priority of a data packet;

determining remaining memory in a memory circuit;

if the data packet has a low priority and the data rate is greater than the maximum data rate, dropping the data packet; and

if the data packet has a high priority and the data rate is greater than the maximum data rate, processing the data packet.